

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

June 23, 1999

DIVISION ONE

Court convened at 9:00 A.M.

Present: Spencer, P.J., Ortega, J., Vogel (Miriam A.), J., Masterson, J., and C. Hon,
Deputy Clerk.

B122959 Victor v. City of Manhattan Beach Landscaping

Argument waived, cause submitted.

B121907 Savadaian
 v.
 Roohinia

Merits:

Argued by Michael J. Pearce for respondent and no appearance for
appellant. Cause submitted.

B126420 Estate of Juanita W. Shell, Deceased.
 Montgomery
 v.
 Payton et al.

Merits:

Argued by Clyde A. Montgomery for appellant and by Walter L.
Gordon, III for respondent. Cause submitted.

DIVISION ONE (Continued)

B115667 Countrywide Funding Corporation et al.

v.

Law Offices of Robert Scott Shtofman et al.

Merits:

Argued by Eric J. Emanuel for appellants and by Louis J. Cutrone and Robert Scott Shtofman for respondents. Cause submitted.

B101396 Conservatorship of the Person and Estate of Bessie Mae McHenry
Crowell

v.

Budget Finance Company

Merits:

Argued by Cary W. Cahlin, Deputy County Counsel for respondent and by Mark E. Schiffman for appellant. Cause submitted.

B123106 Abrams

v.

State of California

Merits:

Argued by James G. Harker for appellant and by Linda J. Vogel, deputy attorney general for respondent. Cause submitted.

B116480 Archuleta

v.

Carreda

Merits:

Argued by Michael F. Sisson for appellant and by Michael J. Convey for respondent. Cause submitted.

DIVISION ONE (Continued)

B120444 Genz Development, Inc.
 v.
 Farmers Insurance Exchange

Merits:
Argued by Donald A. Vaughn for appellant and by Andrea M. Gauthier for respondent. Cause submitted.

B126727 Klaus, etc.
 v.
 Daly et al.

Merits:
Argued by Stanton Lee Phillips for appellant and by Bernard P. Simons for respondents. Cause submitted.

B122420 Adler
 v.
 Ghodooshim

Merits:
Argued by Robert Adler appellant in propria persona and by Cyril Czajkowskyj for respondent. Cause submitted.

B122722 California Casualty Indemnity Exchange
 v.
 Anderson et al.

Merits:
Argued by James T. Catlow for respondent and by James L. Goldman for appellants. Cause submitted.

DIVISION ONE (Continued)

B117397 Myricks et al.
 v.
 Lynwood Unified School District et al.

Merits:
Argued by Frederico Sayre for appellants, by Robert C. Ceccon for respondent City of Lynwood and by Candice K. Rodgers for respondent Lynwood Unified. Cause submitted.

B124211 Gonzalez
 v.
 City of El Monte et al.

Merits:
Argued by Robert Mann for appellant, by D. Wayne Leech for respondent and by Kathy M. Gandara for respondent Baldwin Park Unified. Cause submitted.

B121981 Castaneda
 v.
 Sanchez

Merits:
Argued by James E. Blancarte for appellant and by Deborah Drooz for respondent. Cause submitted.

Ortega, J. leaves the bench.

B125740 Mesa Forest Products, Inc.
 v.
 St. Paul Mercury Insurance Co.

Merits:
Argued by Mark A. Feldman for appellant and by A. Robert Throckmorton for respondent. Cause submitted.

DIVISION ONE (Continued)

B125285 McKelvey et al. v. Boeing North American, Inc.
B125298 McKelvey et al. v. Boeing North American, Inc.
B130137 Boeing North American, Inc., et al. v. S.C.L.A. (Adams, r.p.i.)
B130146 Boeing North American, Inc., et al. v. S.C.L.A. (Davis, r.p.i.)

Merits:

Argued by James B. Kropff for appellants and by Stephen M. Kristovich and Gordon C. Atkinson for respondents. Cause submitted.

Spencer, P.J. leaves the bench.

Ortega, J. returns to the bench.

B120523 WM. R. Clarke Corporation et al.
B120352 v.
Safeco Insurance Company

Merits:

Argued by Herman S. Palarz for appellant, by Richard S. Gerdes for appellant Garvin Fire and by Mark B. Aldrich for respondent. Cause submitted.

Court adjourned.

B132468 Tai Yen Textile Co., Ltd. (Not for Publication)
v.
Superior Court, Los Angeles County
(Bennini, Inc., et al., r.p.i.)

The Court:

THEREFORE, let a peremptory writ issue, commanding respondent superior court to vacate its order of May 27, 1999, denying the peremptory challenge to Hon. Ernest Hiroshige, and to issue a new and different order granting same, in Los Angeles Superior Court case No. BC196833, entitled Bennini, Inc. v. American Golden Epic, Inc., et al. All parties shall bear their own costs.

Spencer, P.J., Ortega, J., Vogel (Miriam A.), J.

DIVISION TWO

[illegible]

The Court:

The judgment is affirmed.

Boren, P.J., Zebrowski, J., Mallano, J. (Assigned)

B123840 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Robert W.

The judgment is affirmed.

Zebrowski, J.

We concur: Boren, P.J.
 Nott, J.

B118286 Brown et al. (Not for Publication)
v.
Craft et al.

The judgment (order of dismissal) is reversed. Appellants to recover costs on appeal.

Zebrowski, J.

We concur: Boren, P.J.
Mallano, J. (Assigned)

DIVISION TWO (Continued)

B124380 People (Not for Publication)
v.
Estrada

The Court:

The judgment is affirmed.

Boren, P.J., Nott, J., Zebrowski, J.

DIVISION FOUR

B123101 Soderberg et al. (Not for Publication)
v.
Cassiar Mining Corporation

The order granting the motion to quash is reversed, and the trial court is ordered on remand to deny the motion. Costs on appeal are awarded to appellants.

Hastings, J.

We concur: Epstein, Acting P.J.
Curry, J.

B124855 People (Not for Publication)
v.
Williams

For the foregoing reasons, the judgment is modified to grant appellant a total of 289 days of presentence custody credit and, as modified is affirmed. The Superior Court is directed to prepare and forward to the Department of Corrections a modified Abstract of Judgment. Remittitur to issue forthwith.

Hastings, J.

We concur: Vogel (C.S.), P.J.
Epstein, J.

DIVISION FIVE

B126631 People (Not for Publication)
v.
Saladin M. Morrow

The judgment is affirmed.

Godoy Perez, J.

We concur: Turner, P.J.
 Grignon, J.

B125444 People (Not for Publication)
v.
Michael Lewis Miller

The judgment is modified to reflect that defendant is to receive 180 days of presentence credits, consisting of 157 days of actual credit and 23 days of conduct credit. As modified, the judgment is affirmed. The clerk of the superior court is directed to prepare an amended abstract of judgment and forward it to the Department of Corrections.

Turner, P.J.

We concur: Godoy Perez, J.
Weisman, J. (Assigned)

B129639 People (Not for Publication)
v.
Kelvin Johnson

The judgment is affirmed.

Godoy Perez, J.

We concur: Turner, P.J.
 Armstrong, J.

DIVISION FIVE (Continued)

B122387 People
v.
Robert Heard and Kenneth Moore

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)

B117955 Premium Commercial Services Corp. (Certified for Publication)
v.
National Bank of California

The trial court orders granting judgment notwithstanding the verdict and new trial are reversed. The matter is remanded to the trial court with directions to enter judgment in favor of Premium in the amount of the section 998 offer, \$201,000. Premium is to recover costs on appeal.

Armstrong, J.

We concur: Turner, P.J.
 Grignon, J.

B117798 Robert Garland
v.
Timothy E. Meyer et al.

Filed order resubmitting matter as of May 27, 1999.

DIVISION SIX

B126260 Hike (Not for Publication)
v.
Long Beach Genetic Testing, Inc.

The judgment is affirmed. Request for sanctions is denied. Costs to respondent.

Yegan, J.

We concur: Gilbert, Acting P.J.
 Coffee, J.

June 23, 1999-Continued

DIVISION SIX (Continued)

B123090 People (Certified for Publication)
v.
Pecci

The judgment is affirmed.

Yegan, J.

I concur: Gilbert, Acting P.J.
I dissent Coffee, J.

B113990 People
v.
Garcia

Filed order denying petition for rehearing.

105142-99 THE HONORABLE LAURA A. MATZ, Judge of the Glendale Municipal Court District, Los Angeles County, is hereby assigned to assist the Court of Appeal, Second Appellate District, Division Six, as a justice thereof, from July 1, 1999 to September 30, 1999, and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of vacancy or disqualification of a Court of Appeal Justice, all petitions for rehearing out of such causes and matters.

This assignment does not extend to any matter in which the panel would be composed of two justices pro tempore.

June 21, 1999

Ronald M. George
Chief Justice of California and
Chairperson of the Judicial Council

B114341 Pruitt (Certified for Partial Publication)
v.
General Motors Corp.

Filed order modifying opinion and certifying for partial publication. (No change in the judgment)

June 23, 1999-Continued

DIVISION SIX (Continued)

B128609 People (Not for Publication)
v.
Sulden

The judgment is affirmed.

Yegan, J.

We concur: Gilbert, Acting P.J.
 Coffee, J.

B113677 People (Not for Publication)
v.
Dabney

The conviction for first degree murder under count 4 of the information is reversed for insufficient evidence. The multiple murder special circumstance allegation under section 190.2, subdivision (a)(3) is vacated. The sentence is vacated and the case is remanded for resentencing. On remand, the trial court is directed to refer appellant to the YA for a diagnostic study as required by the version of Welfare and Institutions Code section 707.2 which was in effect on the date of his crimes, and to thereafter exercise its discretion in resentencing appellant. We express no opinion as to the appropriate disposition upon remand. The judgment is otherwise affirmed.

Coffee, J.

We concur: Gilbert, Acting P.J.
 Yegan, J.

DIVISION SEVEN

B126299 Los Angeles County, D.C.F.S. (Not for Publication)
 v.
 Latrina G.

The judgment is affirmed.

Neal, J.

We concur: Johnson, Acting P.J.
 Woods, J.

B123979 People (Not for Publication)
 v.
 Lasonya G.

The judgment is affirmed.

Neal, J.

We concur: Johnson, Acting P.J.
 Woods, J.

B125768 Hollywood 5555, a California
 Limited Partnership, et al. (Not for Publication)
 v.
 City of Los Angeles, et al.

The judgment is affirmed.

Johnson, Acting P.J.

We concur: Woods, J.
 Neal, J.

B117053 Deleon-Jones
 v.
 Health Net & Health Systems International, Inc.

Filed order denying petition for rehearing.

DIVISION SEVEN (Continued)

B121786 Duarte & Smith No. 4 (Not for Publication)
v.
State Compensation Insurance Fund et al.

The judgment is affirmed. Respondents are awarded costs of appeal.

Woods, J.

We concur: Johnson, Acting P.J.
 Neal, J.

B121558 People (Not for Publication)
v.
Thompson

The judgment is modified to reflect a parole mandatory restitution fine under Penal Code section 1202.45, to remain suspended unless and until appellant violates parole, a \$50 state penalty assessment under Penal Code section 1464, and a \$35 county penalty assessment under Government Code section 76000. The superior court is directed to reflect these fines and deliver the amended abstract to the Department of Corrections. The judgment is affirmed as modified.

Woods, J.

I concur: Johnson, J.
I concur in the judgment only: Lillie, P.J.